

Lynsey Ross
Assistant U.S. Attorney
U.S. Attorney's Office
2601 Second Ave. North, Suite 3200
Billings, MT 59101
(406) 247-4632
lynsey.ross@usdoj.gov

Attorneys for the United States of America

**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF MONTANA**

In re

ROBIN CLAUSEN,

Debtor.

Case No. **2:19-bk-61214-BPH**

ROBIN CLAUSEN,

Plaintiff(s).

Adv. No. **2:23-ap-02001-BPH**

-vs-

**HIGHER EDUCATION LOAN
AUTHORITY OF THE STATE OF
MISSOURI, d/b/a MOHELA;
U.S. DEPARTMENT OF EDUCATION;
and THE PENNSYLVANIA STATE
UNIVERSITY**

Defendant(s).

ANSWER BY THE UNITED STATES

The United States of America, on behalf of its agency the United States Department of Education ("Education"), hereby answers the allegations in Plaintiff's First Amended Adversary Complaint (ECF No. 27) filed October 13, 2023.

1. As to Paragraphs 1-2, Education lacks sufficient knowledge and information to admit or deny and therefore denies the same.

2. As to Paragraph 3, Education admits that the United States Department of Education is a federal agency.

3. As to Paragraph 4, Education lacks sufficient knowledge and information to admit or deny and therefore denies the same.

4. As to Paragraphs 5-9, admit, assuming the statutory reference in ¶ 6 refers to 28 U.S.C. § 1334; if not, then Education denies as to “28 U.S.C. § 1334(b)”.

5. As to Paragraphs 10-14, Education lacks sufficient knowledge and information to admit or deny and therefore denies the same.

6. As to Paragraph 14, Education admits Plaintiff filed his most recent bankruptcy on December 9, 2019. As to the remainder of this paragraph, Education lacks sufficient knowledge and information to admit or deny and therefore denies the same.

7. As to Paragraphs 15-21, Education lacks sufficient knowledge and information to admit or deny and therefore denies the same.

8. As to Paragraph 22, Education admits that all student loan borrowers received payment relief during the Covid-19 pandemic, and that relief ended August 2023. As to the remainder of this paragraph, Education lacks sufficient knowledge and information to admit or deny and therefore denies the same.

9. As to Paragraphs 23-25, Education lacks sufficient knowledge and information to admit or deny and therefore denies the same.

10. As to Paragraph 26, Education incorporates its responses to the identified paragraphs as set forth above.

11. As to Paragraph 27, deny.

12. Paragraph 28 (including all subparts) contains conclusions of law to which no response is required. To the extent a response is required: Education admits that the *Brunner* test applies, denies that a totality of the circumstances test applies, and denies Plaintiff is entitled to the requested relief. Education avers that the cited laws, regulations, or legal authorities speak for themselves and denies the characterization and any allegation inconsistent with the plain language, meaning, context, and governing precedent. As to the remainder of this allegation, Education lacks sufficient knowledge and information to admit or deny and therefore denies the same.

13. Paragraph 29 contains conclusions of law to which no response is required. To the extent a response is required, Education denies the entirety of the paragraph and denies that Plaintiff is entitled to the requested relief.

14. The remainder of the Complaint is Plaintiff's request for relief which does not require a response. To the extent a response is required, Education denies that Plaintiff is entitled to the requested relief.

15. Education denies each and every allegation not expressly admitted or denied.

16. Education consents to final orders by the bankruptcy court.

WHEREFORE, the United States of America respectfully requests that the Court deny the requested relief; declare that Plaintiff's student loan debt to the United States is nondischargeable pursuant to 11 U.S.C. § 523(a)(8); award costs as allowed by law; and grant such further relief as the Court deems just and proper.

DATED: November 13, 2023.

JESSE A. LASLOVICH
United States Attorney

/s/ Lynsey Ross
Assistant U.S. Attorney
Attorney for the United States

CERTIFICATE OF SERVICE

I, the undersigned, do hereby certify under penalty of perjury that on November 13, 2023, a copy of the foregoing was served by electronic means pursuant to LBR 9013-1(d)(2) on the parties noted in the Court's ECF transmission facilities and/or by mail on the following parties:

None.

/s/ Lynsey Ross
Assistant U.S. Attorney
Attorney for the United States